

and disinfection, except for cleaning and disinfection of the conveyances used to transport the swine to the location of disposal.

[64 FR 13065, Mar. 17, 1999. Redesignated at 65 FR 20711, Apr. 18, 2000]

## **PART 53—FOOT-AND-MOUTH DISEASE, PLEUROPNEUMONIA, RINDERPEST, AND CERTAIN OTHER COMMUNICABLE DISEASES OF LIVESTOCK OR POULTRY**

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**AUTHORITY:** 7 U.S.C. 8301–8317; 7 CFR 2.22, 2.80, and 371.4.

**CROSS REFERENCE:** For non-applicability of part 53 with respect to certain claims for indemnity, see §51.10 of this chapter.

### **§53.1 Definitions.**

*Accredited veterinarian.* A veterinarian approved by the Administrator in accordance with part 161 of this chapter to perform functions specified in parts 1, 2, 3, and 11 of subchapter A of this chapter and subchapters B, C, and D of this chapter, and to perform functions required by cooperative State-Federal disease control and eradication programs.

*Administrator.* The Administrator, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.

*Animal and Plant Health Inspection Service.* The Animal and Plant Health Inspection Service of the United States Department of Agriculture (APHIS).

*Animals.* Livestock, poultry, and all other members of the animal kingdom, including birds whether domesticated or wild, but not including man.

*APHIS employee.* Any individual employed by the Animal and Plant Health Inspection Service who is authorized

by the Administrator to do any work or perform any duty in connection with the control and eradication of disease.

*Bird.* Any member of the class *aves* other than poultry.

*Department.* The United States Department of Agriculture.

*Disease.* Foot-and-mouth disease, rinderpest, contagious pleuropneumonia, exotic Newcastle disease, highly pathogenic avian influenza, infectious salmon anemia, spring viremia of carp, or any other communicable disease of livestock or poultry that in the opinion of the Secretary constitutes an emergency and threatens the livestock or poultry of the United States.

*Exotic Newcastle Disease (END).* Any virulent Newcastle disease. Exotic Newcastle disease is an acute, rapidly spreading, and usually fatal viral disease of birds and poultry.

*Highly pathogenic avian influenza.* (1) Any influenza virus that kills at least 75 percent of eight 4- to 6-week-old susceptible chickens within 10 days following intravenous inoculation with 0.2 ml of a 1:10 dilution of a bacteria-free, infectious allantoic fluid;

(2) Any H5 or H7 virus that does not meet the criteria in paragraph (1) of this definition, but has an amino acid sequence at the hemagglutinin cleavage site that is compatible with highly pathogenic avian influenza viruses; or

(3) Any influenza virus that is not an H5 or H7 subtype and that kills one to five chickens and grows in cell culture in the absence of trypsin.

*Inspector in charge.* An APHIS employee who is designated by the Administrator to take charge of work in connection with the control and eradication of disease.

*ISA Program veterinarian.* The APHIS veterinarian assigned to manage the infectious salmon anemia program for APHIS in the State of Maine and who reports to the Area Veterinarian in Charge.

*Materials.* Parts of barns or other structures, straw, hay, and other feed for animals, farm products or equipment, clothing, and articles stored in or adjacent to barns or other structures.

*Mortgage.* Any mortgage, lien, or other security or beneficial interest

held by any person other than the one claiming indemnity.

*Person.* Any individual, corporation, company, association, firm, partnership, society, joint stock company, or other legal entity.

*Pet bird.* Any bird that is kept for personal pleasure and is not for sale.

*Poultry.* Chickens, ducks, geese, swans, turkeys, pigeons, doves, pheasants, grouse, partridges, quail, guinea fowl, and pea fowl.

*Secretary.* The Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has been or may be delegated to act in the Secretary's stead.

*State.* Each of the States of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States.

[61 FR 56882, Nov. 5, 1996, as amended at 67 FR 17610, Apr. 11, 2002; 69 FR 27827, May 17, 2004; 74 FR 18287, Apr. 22, 2009]

### § 53.2 Determination of existence of disease; agreements with States.

(a) The Administrator is hereby authorized to invite the proper State authorities to cooperate with the Department in the control and eradication of any disease within the meaning of § 53.1.

(b) Upon agreement of the authorities of the State to enforce quarantine restrictions and orders and directives properly issued in the control and eradication of such a disease, the Administrator is hereby authorized to agree, on the part of the Department, to cooperate with the State in the control and eradication of the disease, and, except as provided in § 53.11, to pay 50 percent (and in the case of exotic Newcastle disease or highly pathogenic avian influenza, up to 100 percent, and in the case of infectious salmon anemia, up to 60 percent) of the expenses of purchase, destruction and disposition of animals and materials required to be destroyed because of being contaminated by or exposed to such disease: *Provided, however,* That if the animals were exposed to such disease prior to or during interstate movement and are not eligible to receive indemnity

from any State, the Department may pay up to 100 percent of the purchase, destruction, and disposition of animals and materials required to be destroyed: *Provided, further,* That the cooperative program for the purchase, destruction, and disposition of birds shall be limited to birds which are identified in documentation pursuant to Cooperative Agreements,<sup>1</sup> as constituting a threat to the poultry industry of the United States: *And provided further,* That the Secretary may authorize other arrangements for the payment of such expenses upon finding that an extraordinary emergency exists.

[37 FR 5689, Mar. 18, 1972, as amended at 49 FR 3448, Jan. 27, 1984; 49 FR 26712, June 29, 1984; 61 FR 56883, Nov. 5, 1996; 67 FR 17610, Apr. 11, 2002; 67 FR 67095, Nov. 4, 2002]

### § 53.3 Appraisal of animals or materials.

(a) Animals affected by or exposed to disease, and materials required to be destroyed because of being contaminated by or exposed to disease shall be appraised by an APHIS employee and a representative of the State jointly, or, if the State authorities approve, by an APHIS employee alone.

(b) The appraisal of animals shall be based on the fair market value and shall be determined by the meat, egg production, dairy or breeding value of such animals. Animals may be appraised in groups providing they are the same species and type and providing that where appraisal is by the head each animal in the group is the same value per head or where appraisal is by the pound each animal in the group is the same value per pound.

(c) Appraisals of animals shall be reported on forms furnished by APHIS. Reports of appraisals shall show the number of animals of each species and the value per head or the weight and value by pound.

(d) Appraisals of materials shall be reported on forms furnished by APHIS. Reports of appraisals of materials shall, when practicable, show the number, size or quantity, unit price, and

<sup>1</sup> Agreements between the Departments and the particular State involved relating to cooperative animal (including poultry) disease prevention, control, and eradication.